

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Christopher Ford,)	C/A No. 1:13-1618-JFA-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Director Jon Ozmint; Warden Wayne)	
McCabe; and Nurse Practitioner E. Holcomb,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Christopher Ford, is an inmate at the Lieber Correctional Institution, part of the South Carolina Department of Corrections. He brings this action under 42 U.S.C. § 1983 contending that the defendants violated his constitutional rights by failing to provide him with adequate medical care for his spinal injury.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the defendants' motion to dismiss² should be granted. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

² An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying plaintiff of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion to dismiss. Plaintiff responded to the motion.

The plaintiff was advised of his right to file objections to the Report and Recommendation, and he has filed objections thereto. The court has conducted a *de novo* review of the plaintiff's objections and finds them to be duplicative of the claims in the complaint. As such, the plaintiff's objections are overruled.

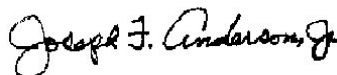
The Magistrate Judge opines that to the extent the plaintiff alleges medical malpractice, the defendants' motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure should be granted because the plaintiff has failed to comply with S.C. Code Ann. § 15-36-100 for filing medical malpractice actions. The Magistrate Judge also notes that plaintiff's claims for deliberate indifference to his serious medical needs remain pending in this federal action.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the plaintiff's objections thereto, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is therefore adopted and incorporated herein by reference.

Accordingly, the defendants' motion to dismiss the plaintiff's medical malpractice claim (ECF No. 16) is granted. The Clerk shall return this case to the Magistrate Judge for further proceedings on the plaintiff's remaining claims.

IT IS SO ORDERED.

March 18, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge